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CHARLES ELMORE

Supreme Court of the United States

OCTOBER TERM, 1944

No. 63

THE NORTHWESTERN BANDS OF SHOSHONE INDIANS

Petitioners,

vs.

THE UNITED STATES

ON WRIT OF CERTIORARI TO THE COURT OF CLAIMS

APPENDIX

to

Brief for Petitioners

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JURISDICTIONAL ACT

ACT OF FEBRUARY 28, 1929, 45 STAT. 1407

CHAP. 377.—An Act Conferring jurisdiction upon the Court of Claims to hear, adjudicate, and render judgment in claims which the northwestern bands of Shoshone Indians may have against the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction be, and hereby is, conferred upon the Court of Claims, notwithstanding lapse of time or statutes of limitations, to hear, adjudicate, and render judgment in any and all claims which the northwestern bands of Shoshone Indians may have against the United States arising under or growing out of the treaty of July 2, 1863 (Eighteenth Statutes, page 685-2 Kappler, 848); treaty of July 30, 1863 (Thirteenth Statutes, page 863-2 Kappler 850); Act of Congress approved December 15, 1874 (Eighteenth Statutes, page 291), and any subsequent treaty Act of Congress, or Executive order, which claims have not heretofore been determined and adjudicated on their merits by the Court of Claims or the Supreme Court of the United States.

SEC. 2. That any and all claims against the United States within the purview of this Act shall be forever barred unless suit be instituted or petition filed as herein provided in the Court of Claims within five years from the date of the approval of this Act; and such suit shall make the northwestern bands of Shoshone Indians party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claims under contract with the northwestern bands of Shoshone Indians, approved by the Commissioner of Indian Affairs and the Secretary of the Interior as provided

by law. Official letters, papers, documents, and records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys for said Indians to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys for said Indians.

SEC. 3. That in said suit the Court of Claims shall also hear, examine, consider, and adjudicate all claims which the United States may have against the said northwestern bands of Shoshone Indians. Any payment which may have been made by the United States, including gratuities for the benefit of any band or bands of said Indians or for their support and civilization, shall not operate as an estoppel, but may be pleaded as a set-off in said suit.

SEC. 4. That from the decision of the Court of Claims in any suit prosecuted under the authority of this Act an appeal may be taken by either party, as in other cases, to the Supreme Court of the United States.

SEC. 5. The Court of Claims shall have full authority by proper process and orders to bring in and make parties to such suit any and all persons deemed by it necessary or proper to the final determination of the matters in controversy.

SEC. 6. A copy of the petition shall, in such case, be served upon the Attorney General of the United States, and he or some attorney from the Department of Justice to be designated by him is hereby directed to appear and defend the interests of the United States in such case.

SEC. 7. Upon final determination of such suit or suits the Court of Claims shall have jurisdiction to fix and determine a reasonable fee, not to exceed 10 per centum of the recovery, together with all necessary and proper expenses incurred in preparation and prosecution of the suit, to be

paid to the attorney or attorneys employed by said northwestern bands of Shoshone Indians, or any of them, and the same shall be included in the decree and shall be paid out of any sum or sums found to be due said bands.

SEC. 8. The balance of the proceeds of all amounts, if any, recovered for said northwestern bands of Shoshone Indians shall be deposited in the Treasury of the United States to the credit of the Indians decreed by said court to be entitled thereto, and shall draw interest at the rate of 4 per centum per annum from the date of the judgment or decree and shall be subject to appropriation by Congress only for the health, education, and industrial advancement of said Indians.

ACT AUTHORIZING NEGOTIATION OF TREATY WITH THE SHOSHONES

Act of July 5, 1862, c. 135, 12 Stat. 512, 529 (Interior Department Appropriation Act for 1863):

* * *

For defraying the expenses of negotiating a treaty with the Shoshonees or Snake Indians, or so much thereof as may be needed, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

* * *

ACT AUTHORIZING TREATIES TO EXTINGUISH PETITIONERS' INDIAN TITLE

Act of February 23, 1865, c. 45, 13 Stat. 432.

CHAP. 45.—An Act to extinguish the Indian Title to lands in the Territory of Utah suitable for agricultural and mineral Purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assem-

bled, That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to enter into treaties with the various tribes of Indians of Utah Territory, upon such terms as may be deemed just to said Indians and beneficial to the government of the United States: *Provided*, That such treaties shall provide for the absolute surrender to the United States, by said Indians, of their possessory right to all the agricultural and mineral lands in said territory except such agricultural lands as by said treaties may be set apart for reservations for said Indians: *And provided further*, That all such reservations shall be selected at points as remote as may be practicable from the present settlements in Utah Territory.

SEC. 2. *And be it further enacted*, That in agreeing with said Indians upon the amounts to be paid to them under the provisions of the treaties to be negotiated in pursuance of this act, care shall be taken to obtain from the Indians, to the greatest possible extent, their consent to receive for such payments agricultural implements, stock, and other useful articles, rather than money.

SEC. 3. *And be it further enacted*, That for the purpose of negotiating said treaties and carrying out the provisions of this act, making presents to said Indians, and defraying the necessary expenses incident to such negotiation, there is hereby appropriated, out of any money in the treasury of the United States not otherwise appropriated, the sum of twenty-five thousand dollars.

ANNUAL REPORT, COMMISSIONER OF INDIAN AFFAIRS FOR 1849

Pp. 66-68:

FORT BRIDGER, on Black's Fork of Green or Colorado river,

August 22, 1849.

SIR: We arrived here yesterday. Messrs. Vasques and Bridger are the proprietors, and have resided here and in these mountains for more than twenty five years. They are engaged as traders belonging to the American Fur Company. They are gentlemen of integrity and intelligence, and can be fully relied on in relation to any statement they make in regard to the different tribes, claims, boundaries, and other information in relation to the Utah and Sho-sho-nie tribes, and a small band of Parnacks, as they have, during their residence, been engaged in trade with them.

* * * * * *

Among the Sho-sho-nies there are only two bands, properly speaking. The principal or better portion are called Sho-sho-nies, or Snakes, who are rich enough to own horses; the others, the Sho-sho-coes, or Walkers, are those who cannot or do not own horses. The principal chiefs of the Sho-sho-nies are *Momo*, about forty-five years old, so called from a wound in his face or cheek, from a ball, that disfigures him; *Wiskin*, Cuthair; *Washikick*, Gourd-rattle, (with whom I have had an interview;) and *Oapichi*, Big Man. Of the Sho-sho-coes, *Augatasipa* is the most noted.

Both bands number probably over one thousand lodges of four persons each. Of the relative portion of each band no definite account can be given; for, so soon as a Sho-sho-nie becomes too poor to, or does not, own a horse, he is at once called a Sho-sho-coe; but as soon as a Sho-sho-coe can, or does, own a horse, he is again a riding Indian, and therefore a Sho-sho-nie. Their language, with the exception of

some *Patois* differences, is said to be that of the Comanche tribe. Their [Sho-sho-nies] claim of boundary, is to the east from the Red Buttes, on the North Fork of the Platte, to its head in the Park, De-cay-a-que, or Buffalo Bull-pen, in the Rocky mountains; to the south, across the mountains, over the Yan-pa-pa, till it enters Green or Colorado river, and then across to the Back bone, or ridge of mountains called the Bear River mountains, running nearly due west towards the Salt Lake, so as to take in most of the Salt Lake; thence on to the Sinks of Mary's or Humboldt's river; thence north to the fisheries, on the Snake river, in Oregon; and thence south, (their northern boundary,) to the Red Buttes, including the source of Green river—a territory probably three hundred miles square, most of which has too high an elevation ever to be useful for cultivation of any sort. * * *

* * * * * *

* * * How these people are to live, or even exist, for any great length of time, I cannot by any means determine. Their support has heretofore been mostly game and certain roots, which in their native state are rank poison, called tobacco root; but when put in a hole in the ground, and a large fire burned over them become wholesome diet. The Mormon settlement in the Salt Lake valley has not only greatly diminished their formerly very great resource of obtaining fish out of the Utah Lake and its sources, which to them was an important resource; but *their* settlement, with the great emigration there, and to California, has already nearly driven away all the game, and will unquestionably soon deprive them almost entirely of the only chances they have for food. This will, in a few years, produce a result not only disastrous to them, but must inevitably engage the sympathies of the nation. How this is to be avoided, is a question of much difficulty; but it is, nevertheless the more imperative on the government, not only to discuss, but to put in practice, some mode of relief for these unfortunate people— * * *

* * * * * *

Supposing the government will be prepared next summer to take some decisive step towards a regular system of intercourse with them, and with a view of enabling the government, as effectually as possible, to guard against the unfortunate results of the causes in operation for their entire starvation, a (few only of which I have mentioned, for want of time,) I have concluded so to arrange matters, before I leave, that both these nations [Utahs and Sho-sho-nies] will be able to send large delegations, if not most of the principal bands of their tribes, to a great council to be held *here* next summer, being not only by far the most convenient place for such a council, but is also where the principal agency ought to be established; and here, also, ought to be established the leading military post of these mountains--for which, hereafter, I shall give my views more at large.

I have suggested the matter of the great council to Washikick, the only principal chief I have seen, and he highly approves of the plan. I have already made such arrangements, through the assistance of Major Vasques, (Mr. Bridger not being at home,) that all of both tribes will be notified of my design to hold such a council; and as soon as I shall have your pleasure on the subject, (which I hope will be at an early day after I get to San Francisco, in November) I will then fix a time which will best suit the views of the department, (if it shall meet with your approbation, as I hope it will,) and will then cause them to be notified of the day, which must of necessity not be later than August, and not earlier than July, as any other months would not be convenient for them to attend. The Sho-sho-nies are reputed an honest and *sober* people, decidedly friendly to the whites; and, if proper agents are kept amongst them, they will be easily managed, if a fair support can be provided for them. Some of the objects which I have supposed might be gained by such counsel, you will easily perceive from what I have said above, and many others, of perhaps equal importance, may also be

accomplished. It is of great importance that these Utahs should be laid under obligations to cease their accustomed depredations on the whites and their property; and it is of greater importance to adopt some mode or other to save the Snakes from utter destitution, which in a year or two must inevitably take place, if things remain as they now are.

* * * * * *

JOHN WILSON.

Hon. T. Ewing,
Secretary of the Department of the Interior.

ANNUAL REPORT, COMMISSIONER OF INDIAN AFFAIRS FOR 1851

pp. 182-184:

Fort Laramie, September 21, 1851.

Hon. L. Lea, Commissioner of Indian Affairs.

Dear Sir: * * *

On my route to Utah I passed many trains of emigrants, some for Oregon, some for California, but mostly for Utah. I found many of them in great distress, from depredations and robberies committed by the Indians; some were robbed of all their provisions and even of the clothing on their backs; many had their stock stolen, &c.

* * * * *

The emigrants not being able to distinguish one tribe from another, were equally fearful when they arrived in the territory of the Shoshonees, or Snakes, whose country embraces a portion of Oregon Territory, a portion of Utah, and a portion of the St. Louis superintendency; they therefore continued their practice of corralling their stock, still apprehending danger.

The Indians below having been publicly invited to the treaty at Laramie, and, as I understood, would generally attend, I thought it advisable to endeavor to get the Shoshonees to attend also, believing that it would promote the interest of the country and the Indians, and greatly benefit the vast number of emigrants who were daily passing the road.

I believed, also, that it would not only meet the approbation of the Department, but that it was greatly desired to have them there, as the main route for emigration passed through their country. I was justified in this opinion from a conversation held with you on the subject of the Indians in Utah, in May last, at Washington, in which you expressed the wish that they, or as many of the tribes as could be got, should attend. Believing, therefore, that it would

be beneficial to the Indians and the country, and believing that it would secure to the emigrants peace and safety in traveling the country; in short, believing it to be my duty, when I reached the country of the Shoshonees I immediately hired an interpreter and guide, collected some of their chiefs and braves, and made arrangements to attend them to the treaty at Laramie. I then hurried to Salt Lake City, and reported to Governor Young, the arrangements I had made; it met with his approbation, and he ordered me to fulfil my engagements with the Indians.

I immediately returned, and met the village assembled on Sweet Water, about 50 miles east of the South Pass. On the 21st of August I had a talk with them, which resulted in their selecting 60 of their head men, fully authorized to act for the whole tribe; we arrived at Laramie on the first day of September.

I regret that Col. Mitchell so construes his powers and instructions as to exclude them from being parties to the treaty, believing that they are not properly in his superintendency, but that they belong to the superintendency of Utah. He has, however, expressed much gratification at their being here, and will give them presents with the rest of the Indians, which will be, I hope, satisfactory to them. They are a tribe who have been uniformly friendly to the whites, and seem to have great confidence in and respect for them.

* * * * *

* * * I find much excitement among the Indians, in consequence of the whites settling and taking possession of their country, driving off and killing their game, and in some instances driving off the Indians themselves.

* * * * *

I find, also, another class of individuals—a mixture of all nations—and although less powerful in numbers, equally injurious to the country and the Indians—these are a set of traders, called here *"Freemen,"* who are settled around and among the Indians; some have married among

them; all, however, have an influence, which is exerted to serve their particular personal interests. This is operating against the interests of the Indians and the country, and tends greatly to prevent the agents from doing that which is required by the Department.

* * * * *

I am of the opinion that it would be greatly beneficial to the interest of the Indians to have an agency established for the Shoshonee tribe, and located on Green river, at or near the ferry or crossing. It is on the main road, and is one of those places where the *"Freemen"* generally collect in the spring to prey upon the misfortunes and necessities of the emigrants. The Indians are consequently drawn there; and I am informed that they have induced Indians to drive off the stock of emigrants, so as to force them to purchase of the *"Freemen"* at exorbitant prices; and, after the emigrants have left, make a pretended purchase of the Indians for a mere trifle, and are ready to sell again to the next train that may pass, and who may have been served in the same manner. I think that a treaty with the various tribes of Indians in Utah would be productive of much good, if held immediately. It would have the effect of preventing depredations on their lands, quieting their excitement against the whites, and ultimately save the government from much trouble and expense. * * *

I have the honor to remain, very respectfully, &c.,

J. H. HOLEMAN

ANNUAL REPORT, COMMISSIONER OF INDIAN AFFAIRS FOR 1852

pp. 9-10:

At an early period in the last summer, the agent for the Indians in Utah undertook, with the approbation of the governor of the Territory, an expedition to the various tribes therein occupying the region west of the Great Salt Lake. The thoroughfare of travel to California and Oregon passes through their country, and the object of the expedition was to prevent a recurrence, if possible, of numerous and often fatal collisions between the emigrants and Indians. It seems to have been eminently successful, as no murders or robberies are reported to have been committed by these Indians during the present year. To give some idea of the immense travel along this route, and the consequent importance of conciliating the Indians, the agent states that in returning to Salt Lake, he passed on each of several days as many as three hundred wagons.

pp. 149-155:

GREAT SALT LAKE CITY,
Utah Territory, September 25, 1852.

SIR: The time has arrived when it becomes my duty to make to you my annual report. Since my report made to your excellency on the 30th of March, nothing occurred of importance until I left for the Humboldt and Carson valley, on the 12th May. * * *

* * * * *

I found the Indians on the whole route disposed to be friendly, or at least they professed to be so. Those I met with on this side of the Goose Creek mountains, about one hundred and eighty miles from this place, claimed to be of the Shoshonie tribe, and belonged to the band who reside in the neighborhood of Box Elder, some eighty miles north of this place. They professed to be on a hunting excursion, and on a visit to a portion of their tribe who reside in these

mountains; all of whom they reported friendly to the whites.

We subsequently met with a few scattering parties of this mountain tribe, generally called "Diggers," but who also claimed to be Shoshonies. They likewise professed friendship and great respect for the whites. After we arrived on the Humboldt, although there were many Indians to be seen in small parties, it was difficult to get a talk with them. Those, however, who we could prevail upon to meet us seemed remarkably friendly, and were much pleased with the kindness and friendship shown them by our company. They also claimed to be of the Shoshonie tribe. They seemed to be very poor, and unarmed, except with the bow and arrow. They said they had no wish to be at war with the whites, but that the whites were always at war with them; that they could not hunt or fish on the river but the whites were shooting them; that the whites would persuade them into their camps, professing great friendship, and, without any cause or offence on their part, would shoot them down. This conduct on the part of the whites, they said, was sometimes revenged by the Indians; but if the whites would let them alone, they would be glad, and would not disturb them in future. I had heard of several circumstances corroborating these charges, and was disposed to place some confidence in their statements. * * *

* * * * *

As I returned, in travelling up the Humboldt, I met but few Indians, and those I had great difficulty in getting a talk with. They had seen other Indians, who informed them that I had advised the Indians to keep off the road in order to prevent difficulties with the whites, and that they had generally done so. I met, upon an average, about three hundred wagons daily from the time I left the link [sink] of the Humboldt until I reached the Goose Creek mountains—a distance of upwards of four hundred miles. I inquired particularly in regard to

the conduct of the Indians. The almost universal reply was that they had seen but few Indians, all of whom appeared friendly disposed, and that the Indians on the route had been far less troublesome than the white men. Many of the emigrants expressed the opinion that the only difficulties which had occurred—and they were but few—had been the acts of white men. Since my return to this place all the information I have received justifies the conclusion that the Indians have complied with their promises made to me, and that the expedition has been of service in producing peace and quiet on this road. Up to this time I have heard of no depredations being committed by the Indians. All is peace and quiet on the route.

Having no authority to enter into any treaty stipulations with these Indians, all I could do was to see them, and by friendly means, and by distributing among them a few presents and some provisions, impress upon them the friendly disposition of the government towards them, and, if possible, quiet their hostile feelings towards the whites, and thereby prevent a recurrence of those scenes which have heretofore been so fatal to the emigration and so destructive to life and property. The Indians in this section of the Territory, although they appear to be in a wild and savage state, and have had but little intercourse with the whites, seem to have a very correst idea of the power and importance of our government. They were much pleased with the idea that the "Big Captain" of the whites, as they term the President, knew them, and was friendly disposed towards them. They received the presents I gave them in a manner peculiar to them; exhibiting the strongest evidence of their gratitude and respect.

* * * * *

I have the honor to be, very respectfully, your obedient servant,

J. H. HOLEMAN,
Indian Agent, Utah Territory.

His Excellency Brigham Young,
Superintendent Indian Affairs, Utah Territory.

ANNUAL REPORT, COMMISSIONER OF INDIAN AFFAIRS FOR 1861

p. 25:

The Shoshones, or Snakes, and the Flatheads, are wealthy and powerful, and can cause their hostility to the the remote settlers and the overland immigration to be severely felt. Hence, the pressing necessity of some speedy arrangement with them, which with the Snakes it is suggested should be (as a temporary measure) a treaty granting annuities in consideration of a right-of-way across their country.

pp. 134-136, 138:

OFFICE OF THE SUPERINTENDENT OF
INDIAN AFFAIRS,

Great Salt Lake City, Utah Territory, October 1, 1861.

SIR: In accordance with a regulation of the Indian department, * * * I have the honor herewith to transmit to you my first annual report.

* * * * * *

Too little attention, I am fearful, has heretofore been paid to the fact that there is very little game in this Territory, of any description, which the Indians can kill to keep them in food. There is no buffalo whatever that range in this Territory, and very few antelope, elk, deer, mountain sheep, or bear, and these only in certain localities.

Civilization seems to have had the same effect here as has been noticed elsewhere in this country since the first settlement by our forefathers, in driving before it the game natural to a wilderness, and the Indians complain bitterly that since the white man has come among them their game has almost entirely disappeared from their former hunting-grounds, and they are now obliged either to beg food from the white settlers or starve.

The driving away of the buffalo not only deprives them of their principal supply of food, but also of a great source of revenue and comfort in the skins, which they sold and used to keep them comfortable in cold weather.

I have had more applications from Indians for beef and flour since I have been here than anything else. They frequently come to me and fairly beg for some beef, to keep their squaws and papooses from starving.

Owing to the limited amount of money placed in my hands, I have been unable to entirely satisfy their demands, but I am confident that what I have distributed in that way has been a great deal more satisfactory to the Indians than three times the amount expended in any kind of trinkets usually disbursed by the department would have been.

The annual appropriation for this superintendency has, in my opinion, always been too small to allow the superintendent and agents to give that satisfaction to the Indians which their wants demand, and a proper regard for the rights and safety of the white settlers, by preventing depredations, requires.

* * * * * *

The establishment of the overland daily mail and telegraph lines, and their recent completion through this Territory—consummations of such vital importance to the people throughout the Union—renders it necessary that steps should be immediately taken by the government to prevent the possibility of their being interrupted by the Indians.

On this subject I have taken much pains to consult with most of the leading men connected with these great enterprises, and also with nearly all of the head chiefs of the Indians that range on their lines in this Territory, and have, after mature deliberation, come to the conclusion that the only manner in which this can be effected to the entire satisfaction and protection of all the parties concerned, is by a treaty between the United States and the tribes of Indians ranging in this superintendency.

In recent consultations or "talks" with the Wash-a-kee and Sho-kub, the head chiefs of the Shoshones or Snake Indians, Navacoots and Pe-tut-neet, chiefs of the Ute nation, and many of the sub-chiefs of both nations, I find that they are unanimously in favor of a treaty with the United States, and agree with me in considering that to be the only effectual way to check the stealing propensities of some of their Indians; and from information gleaned from them on various occasions, I have made the following memorandum in regard to the probable cost and effect of a treaty.

They express their willingness to cede to the United States all the lands they claim in this Territory, with the exception of reservations necessary for their homes; and ask, in return, that the United States shall make them annual presents of blankets, beads, paint, calico, ammunition, &c., with occasional supplies of beef and flour sufficient to make them comfortable, which I estimate can be done with a small addition to the usual appropriations.

They seem fully to understand the nature and effect of a treaty, and the chiefs agree to hold themselves responsible for any depredations committed by any of their bands, if a treaty should be made, by deducting the amount of damage done from the annuity paid them.

I cannot too strongly recommend this course to the department, and sincerely hope that it will meet with that prompt attention that, to my mind, the importance of the subject entitles it.

* * * * * *

I have the honor to be, very respectfully, your obedient servant,

HENRY MARTIN,
Superintendent.

Hon. Wm. P. Dole.
Commissioner of Indian Affairs, Washington, D. C.

ANNUAL REPORT, COMMISSIONER OF INDIAN AFFAIRS FOR 1863

pp. 37-38:

Treaties of amity and peace have been concluded with the Shoshones, of Utah and Nevada, as follows, viz: At Fort Bridger, July 2, 1863, by Governor Doty and Agent Mann, as commissioners on the part of the United States, and the eastern bands of said Indians; at Box Elder, July 30, by Governor Doty and General Connor, on the part of the United States, and the northwestern bands; and at Ruby valley, October 1, by Governors Doty and Nye, on the part of the United States, and the western bands. These Indians have long been a scourge to the citizens of Utah and Nevada, and a terror to the emigrants and travellers over the routes leading through those Territories. From the representations made by Governor Doty, we have reason to believe that those treaties have been entered into by the Indians with a sincere desire for peace, and I have no doubt that the friendly relations thus inaugurated may be maintained by wise and judicious action on our part. The scarcity of game in these Territories, and the occupation of the most fertile portions thereof by our settlements, have reduced these Indians to a state of extreme destitution, and for several years past they have been almost literally compelled to resort to plunder in order to obtain the necessaries of life. It is not to be expected that a wild and warlike people will tamely submit to the occupation of their country by another race, and to starvation as a consequence thereof. It was perhaps unavoidable that, in taking possession of these Territories, hostilities should ensue between our own people and the Indians, as the latter knew but little of the vast disparity between their resources and power and our own, and consequently would not listen to any reasonable propositions on our part. Much credit is due to General Connor and the forces under his command, for their prompt and efficient services in chastising these

Indians for their outrages and depredations upon the whites, and in compelling them to sue for peace. Now that this desideratum has been attained, I respectfully recommend that measures be taken for the negotiation of further treaties with the Indians, having for their object the extinguishment of their title to the soil, and the setting apart of a suitable portion of the public domain upon which they may be concentrated, and so provided for that they need not be compelled to resort to plunder in order to sustain life.

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p. 394:

SUPERINTENDENCY OF INDIAN AFFAIRS,

Utah Territory June 20, 1863.

SIR: Your letter of instructions in relation to the proposed treaty with the Shoshones, dated June 1, 1863, I have the honor to acknowledge, and to inform you that I shall proceed the coming week to Fort Bridger for the purpose of meeting the Shoshonees who are assembled there, some of whom I met on my late expedition, and of treating with them according to your instructions of the 22d of July, 1862, and of those now given.

Many of these Indians have been hostile, and have committed depredations upon the persons and property of emigrants and settlers, but now express a strong desire for peace. Agent Mann informs me that he is now feeding them under your authority; I therefore hasten to meet them, that some arrangement may be made by which they can with satisfaction return to their hunting grounds, and upon terms which shall secure peace hereafter, safety to the emigrants and travellers, and relieve the department from the expense now being incurred.

These are about one-third of the Shoshones with whom treaties may be held, and I shall endeavor to limit the ex-

penditures to the least amount to obtain the objects desired by government.

* * * * * * * *

The Shoshonee bands are scattered over so vast an extent of country that it will be necessary for the commissioners to meet them at several points. The whole nation can never be assembled without bringing them hundreds of miles.

Very respectfully, your most obedient servant,

JAMES DUANE DOTY,
Superintendent of Indian Affairs,
Utah Territory.

Hon. Wm. P. Dole,
Commissioner of Indian Affairs.

pp. 395-396:

SUPERINTENDENCY OF INDIAN AFFAIRS,

Utah Territory, Great Salt Lake City, June 20, 1863.

SIR: I have the honor to acknowledge the receipt of your letter, dated May 22, 1863, in relation to my northern expedition, and to report:

That I returned to this city from that expedition on the 19th instant, having been absent six weeks in the Indian country, and travelled over eight hundred miles. I accompanied General Conner to Snake River Ferry, two hundred miles, where we separated, and he proceeded with his cavalry up the Blackfoot river, and south across the dividing ridge to Soda Springs, at which he has established a military post, on the old California and Oregon roads. The Bannacks and Shoshones I met in small bands, and after consulting with them, I am satisfied they are disposed to be peaceable and friendly. The exhibition of a cavalry force among them apparently satisfied them that they could

be reached by the power of the government, and that they would certainly be punished if they committed depredations upon white men. There are, undoubtedly, as they say, some bad men among them, who will not be controlled by the chiefs, but efforts are made by the peaceable Indians to restrain them. The only bands that appear determined to continue hostilities were those of Pokatelo, Sagowitz, and Sanpitz, and with these I could obtain no communication. They must be left to General Conner's troops.

When at Snake River ferry, two express-men arrived, bringing information that a large body of Shoshonees and Bannacks were assembled at Kamash prairie, about one hundred miles further north, on the road used by emigrants to Bannack city, with the intention to either fall upon the miners on Beaver Head and its branches, or upon the emigrants along the road between South Pass and Bridger. If this could be prevented by an interview, I felt it my duty to make the attempt, and therefore proceeded with my interpreter to the place indicated to meet them. At Kamash prairie I found but a few Indians—those remaining stating that those who had been there had gone in different directions to the mountains to hunt, and that they were all friendly to the whites, and disposed to be peaceable. They complained of the white men at Bannack city firing upon them in the streets of that place, when they were there upon a friendly visit, and molesting no one, and killed their chief, Shanog, and two others. They said they did not intend to revenge this wanton act, because it was committed by men who were drunk, and they thought all the people there were drunk at that time. I advised them not to go there again, and to keep away from drunken white men; to be kind, and render good service to the emigrants along the road, and that they would be generously rewarded. I gave them a few presents of blankets, &c. However, fearing there might be trouble from this gross attack, and that other bands might not be disposed to overlook it, I determined, as there was no Indian agent in this section of

country, to proceed to Bannack city, about eighty miles distant, to ascertain the truth of their statement, and to counsel with those who might be along the road through the mountains. On entering the mountains I encountered a large band of Shoshonees, who manifested a friendly spirit, expressed a desire to be at peace, and thankfully accepted the few presents I was able to make them. On arriving at Bannack I learned with regret that the statement by the Indians of the murder of their people was true; that they were fired upon as they were sitting quietly in the street, by a dozen white men, and that their sole object in visiting the place was to give up a child—which they did—which had been demanded of them on the supposition that it was a stolen white child. I saw the child, and have no doubt that it is a half-breed, and was rightfully in their possession. I would have adopted legal measures for the punishment of these offenders, but there were no civil officers there, and no laws but such as have been adopted by miners. The matter must rest until the organization of the government of Idaho.

Whilst at Bannack, I ascertained that bands of Flatheads had passed on the road by which I came, in search of the Bannacks and Shoshonees, for the purpose of stealing their horses and making war upon them. Deeming it unsafe to return alone, I employed Mr. Dempsey, an excellent interpreter, to send a guide and guard of Indians with me. These accompanied me faithfully to the settlement of Box Elder, and will, on their way back, give useful information to those of their nation they meet.

All the Indians I met, during by absence, appeared desirous to form a treaty with the United States, and I told them that when the commissioners were ready to meet them I would send a runner to them to inform them of the time and place for them to assemble.

Very respectfully, your obedient servant,

JAMES DUANE DOTY,

Hon. William P. Dole,
Commissioner of Indian Affairs.

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SUPERINTENDENCY OF INDIAN AFFAIRS,

Utah Territory, Great Salt Lake City, October 24, 1863.

SIR: In compliance with the regulations of the Indian department, I have the honor to present the following annual report for the year 1863. Its earlier transmission was impracticable, having been engaged in the performance of my duties as commissioner to treat with the Shoshonees until this date.

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During the year 1862 and the winter months of this year many of the Indians in this superintendency manifested decided evidences of hostility toward the whites. The numerous murders and depredations upon property which they committed, as also their language, indicated a determination to stop all travel upon the overland routes and upon the roads leading to the gold mines in Idaho Territory. It became unsafe even for the Mormon settlers to go into the canons for wood; and the Bannack prophet said the Indians would combine and drive the white men from the country. This was his advice to the Shoshonee bands.

The battle with the Shoshonees on the Bank of Bear river in January, and the subsequent engagements with the Utahs on Spanish Fork, and with the Goaships in their country, effectually checked them, and severely and justly punished them for the wanton acts of cruelty which they had committed. The fight on Bear river was the severest and most bloody of any which has ever occurred with the Indians west of the Mississippi. One band (that of Sanpitz) was almost exterminated. It struck terror into the hearts of the savages hundreds of miles away from the battle-field.

As soon as it was ascertained that any of the bands were inclined to peace they were met by General Connor and myself at places selected in their own country, and treaties of peace and friendship entered into with them—a service which, in some instances, was regarded as both difficult and hazardous. These negotiations have been communicated

to the department from time to time as they occurred, as also other treaties formed by Governor Nye, Agent Mann, and myself, with the eastern and western bands of Shoshonees. These treaties could not have been made without the aid of the appropriations made by Congress for this superintendency, which have been wholly applied to the great object of restoring peace; and also to the presence of the military, who have rendered distinguished and lasting service to the government in subduing the Indians throughout this Territory.

It appears now as though peace was again permanently established with all of the tribes in this country, and that no danger from them is to be apprehended by emigrants moving in trains or singly, nor of an interruption in future to the overland stage or telegraph lines. They now acknowledge the Americans are the masters of this country. But peace can only be secured by regular, liberal, but just appropriations, and by the continuance of a strong military force upon the main routes of travel through this city, and especially on the routes north of it.

It was only by the judicious application of the appropriations made by Congress at its last session for the Indians in Utah that this department has been so successful in restoring peace, not only throughout this Territory, but in the southern part of Idaho also. It is believed that Congress will not be called upon for like appropriations again if the treaties are ratified and the goods required for the annuities are purchased and forwarded from the Missouri river early in the spring. It must be observed that it will take about three months' time to transport them to the places where they are to be distributed. If this is done, this country can be prospected for its minerals, and the northern gold mines worked with safety and increased advantages.

Very respectfully, your most obedient servant,

JAMES DUANE DOTY,
Acting Superintendent.

HON. WILLIAM P. DOLE,
Commissioner of Indian Affairs.